



**UNITED STATES DEPARTMENT OF COMMERCE**  
**International Trade Administration**  
Washington, D.C. 20230

A-570-890  
Scope Inquiry  
IA / Office 4: BMP  
**Public Document**

December 13, 2011

MEMORANDUM TO: Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

THROUGH: Abdelali Elouaradia  
Director, Office 4  
AD/CVD Operations

Howard Smith  
Program Manager, Office 4  
AD/CVD Operations

FROM: Brandon Petelin  
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AD/CVD Operations, Office 4

RE: Wooden Bedroom Furniture from the People's Republic of China:  
Scope Ruling on University Loft Company's Request

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Summary

Based on the analysis below, we recommend finding that the following products subject to this scope request are covered by the scope of the antidumping duty order on wooden bedroom furniture from the People's Republic of China ("PRC"): twin-sized metal bed headboard, full-sized metal bed headboard, and an Upperclassman 2 Shelf nightstand. We also recommend finding that the following products subject to this scope request are not covered by the scope of the antidumping duty order on wooden bedroom furniture from the PRC: twin-sized Metropolitan slat bed and full-sized Metropolitan slat bed. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China*, 70 FR 329 (January 4, 2005) ("*WBF Order*").

Background

On October 31, 2011, pursuant to 19 CFR 351.225, University Loft Company ("University Loft") requested a ruling by the Department of Commerce ("the Department") to determine whether five products it imports are outside the scope of the *WBF Order*<sup>1</sup> (*i.e.*, twin-sized

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<sup>1</sup> See Letter from University Loft Company to the Secretary of Commerce regarding: Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling Requests of University Loft Company," dated October 31, 2011



Metropolitan slat bed (item number 50211SKD), full-sized Metropolitan slat bed (item number 50205SKD), twin-sized metal headboard (item number 50470-12), full-sized metal headboard (item number 50480-12), and an Upperclassman 2 Shelf nightstand (item number 50568-152)). On November 3, 2011, the Department requested that University Loft re-file its certification accompanying its October 31, 2011, submission so as to comply with the Department's certification requirements.<sup>2</sup> On November 3, 2011, in accordance with 19 CFR 351.303(g), University Loft re-filed its certification accompanying its October 31, 2011, submission.<sup>3</sup> On November 15, 2011, the American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc. (collectively, "Petitioners"), submitted comments on University Loft's Scope Request.<sup>4</sup> On November 16, 2011, the Department issued a supplemental questionnaire to University Loft.<sup>5</sup> On November 18, 2011, University Loft submitted a response to the Department's supplemental questionnaire.<sup>6</sup> On November 21, 2011, the Department issued a second supplemental questionnaire to University Loft.<sup>7</sup> On November 22, 2011, Target Corporation ("Target") submitted comments regarding University Loft's scope ruling request.<sup>8</sup> On November 29, 2011, University Loft submitted a response to the Department's supplemental questionnaire.<sup>9</sup>

### Description of Merchandise

#### Metropolitan Slat Beds – Item Numbers 50211SKD and 50205SKD

University Loft states that the first items for which it is requesting a scope ruling are its Metropolitan slat beds, item numbers 50211SKD and 50205SKD.<sup>10</sup> University Loft states that item 50211SKD is a twin-sized Metropolitan slat bed and item 50205SKD is a full-sized Metropolitan slat bed.<sup>11</sup> University Loft describes the twin- and full-sized Metropolitan slat beds the same, as metal bed frames with wooden slats. Their constituent materials are cold rolled, oil treated, dimensional stock steel finished in a thermoset epoxy powder coating; steel hardware;

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("University Loft's Scope Request"), at 1-2; *see also* *WBF Order*.

<sup>2</sup> *See* Letter to University Loft regarding: Non-Compliance with Certification Requirements, dated November 3, 2011; *see also* 19 CFR 351.303(g).

<sup>3</sup> *See* Letter from University Loft Company to the Secretary of Commerce regarding: Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling Requests of University Loft Company: Certification Re-Filing," dated November 3, 2011.

<sup>4</sup> *See* Letter from Petitioners to Secretary of Commerce regarding: Petitioners' Response to University Loft's Scope Ruling Requests, dated November 15, 2011 ("Petitioners' Comments").

<sup>5</sup> *See* Letter to University Loft regarding: First Supplemental Questionnaire, dated November 16, 2011.

<sup>6</sup> *See* Letter from University Loft to Secretary of Commerce regarding: University Loft's Supplemental Questionnaire Response, dated November 18, 2011 ("University Loft's Supplemental Response").

<sup>7</sup> *See* Letter to University Loft regarding: Second Supplemental Questionnaire, dated November 21, 2011.

<sup>8</sup> *See* Letter from Target Corporation to Secretary of Commerce regarding: Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling Requests of University Loft Company, dated November 22, 2011 ("Target's Comments").

<sup>9</sup> *See* Letter from University Loft to Secretary of Commerce regarding: University Loft's Second Supplemental Questionnaire Response, dated November 29, 2011 ("Second Supplemental Response").

<sup>10</sup> *See* University Loft's Scope Request at 2 and Exhibit B.

<sup>11</sup> *Id.*, at Exhibits B-H.

bent plywood slats that are 5/8 inch thick by 2 3/8 inch wide, constructed of seven plies, and finished with a nitrocellulose sealer; and plastic protective caps. In addition, University Loft states that both bed models are imported complete and assembled and can be purchased separately or in combination with a mattress and a variety of complementary bedroom furniture (e.g., a nightstand or headboard).<sup>12</sup> Moreover, in its supplemental response, University Loft explains that its Metropolitan slat beds are standalone items that are independent of the wooden drawers pictured underneath the Metropolitan slat beds in University Loft's marketing materials.<sup>13</sup> See Attachment I.

University Loft further states that its marketing materials characterize the Metropolitan slat beds as part of University Loft's "metal line."<sup>14</sup> Finally, University Loft states that its Metropolitan slat beds are classified under 9403.20.0018 of the United States' Harmonized Tariff Schedule ("HTSUS") ("Other furniture and parts thereof: Other metal furniture; Household; Other").<sup>15</sup>

#### Metal Headboards – Item Numbers 50470-12 and 50480-12

University Loft states that the next items for which it is requesting a scope ruling are its metal bed headboards, item numbers 50470-12 and 50480-12.<sup>16</sup> University Loft states that item 50470-12 is a twin-sized metal bed headboard and item 50480-12 is a full-sized metal bed headboard.<sup>17</sup> University Loft describes the twin- and full-sized metal bed headboards the same: their constituent materials are cold rolled, oil treated, dimensional stock steel finished in a thermoset epoxy powder coating; metal hardware; a sheet of high pressure laminate on a particleboard core; and plastic protective caps.<sup>18</sup> In addition, University Loft states that both headboard models are imported complete and assembled and can be purchased separately, with or without a Metropolitan slat bed, or in combination with other University Loft bedroom furniture (e.g., a nightstand).<sup>19</sup> University Loft further states that its marketing materials characterize the metal bed headboards as part of its "mixed medium" or "metal" line of furniture.<sup>20</sup> See Attachment I. Finally, University Loft states that its metal bed headboards are classified under HTSUS number 9403.20.0018 ("Other furniture and parts thereof: Other metal furniture; Household; Other").<sup>21</sup>

#### Upperclassman 2 Shelf nightstand – 50568-152

University Loft states that the next item for which it is requesting a scope ruling is its Upperclassman 2 Shelf nightstand (item number 50568-152) ("nightstand"), which consists of a

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<sup>12</sup> *Id.*, at Exhibits B.

<sup>13</sup> See University Loft's Supplemental Response at 3.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> See University Loft's Scope Request at 2 and Exhibit B.

<sup>17</sup> *Id.*, at Exhibits B and I-M.

<sup>18</sup> *Id.*, at Exhibits B.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

metal frame and two separate pieces of particleboard that act as the table top and a bottom decorative shelf.<sup>22</sup> University Loft describes the nightstand as consisting of the following materials: cold rolled, oil treated, dimensional stock steel finished in a thermoset epoxy powder coating; high pressure laminate on a particleboard core; and plastic protective caps.<sup>23</sup> In addition, University Loft states that the nightstand is imported complete and disassembled and can be purchased separately or in combination with other University Loft bedroom furniture (e.g., Metropolitan slat bed or metal bed headboard).<sup>24</sup> University Loft further states that its marketing materials characterize the nightstand as part of its “mixed medium” or “metal” line of furniture.<sup>25</sup> See Attachment I.

Finally, University Loft states that its nightstands are classified under HTSUS number 9403.20.0018 (“Other furniture and parts thereof: Other metal furniture; Household; Other”).<sup>26</sup>

### Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaux, mule chests, gentlemen’s chests, bachelor’s chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,<sup>27</sup> highboys,<sup>28</sup> lowboys,<sup>29</sup> chests of drawers,<sup>30</sup> chests,<sup>31</sup>

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<sup>22</sup> See University Loft’s Scope Request at 2 and Exhibit B.

<sup>23</sup> *Id.* at Exhibits B.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

<sup>28</sup> A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

<sup>29</sup> A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

<sup>30</sup> A chest of drawers is typically a case containing drawers for storing clothing.

<sup>31</sup> A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

door chests,<sup>32</sup> chiffoniers,<sup>33</sup> hutches,<sup>34</sup> and armoires;<sup>35</sup> (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;<sup>36</sup> (9) jewelry armories;<sup>37</sup> (10) cheval mirrors;<sup>38</sup> (11) certain metal parts;<sup>39</sup> (12) mirrors that do not attach to, incorporate in, sit on, or hang over a

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<sup>32</sup> A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

<sup>33</sup> A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

<sup>34</sup> A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

<sup>35</sup> An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

<sup>36</sup> As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See CBP's Headquarters Ruling Letter 043859, dated May 17, 1976.

<sup>37</sup> Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, concerning "Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China," dated August 31, 2004. See also *Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review, and Determination To Revoke Order in Part*, 71 FR 38621 (July 7, 2006).

<sup>38</sup> Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, i.e., a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. See *Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part*, 72 FR 948 (January 9, 2007).

<sup>39</sup> Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden

dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds<sup>40</sup> and (14) toy boxes.<sup>41</sup>

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 of the U.S. Harmonized Tariff Schedule (“HTSUS”) as “wooden . . . beds” and under subheading 9403.50.9080 of the HTSUS as “other . . . wooden furniture of a kind used in the bedroom.” In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9042 or 9403.50.9045 of the HTSUS as “parts of wood.” Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, or 9403.20.0018. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as “glass mirrors . . . framed.” The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

### Legal Framework

The Department examines scope requests in accordance with 19 CFR 351.225. Under 19 CFR 351.225(k)(1), the Department first examines the description of the merchandise contained in the petition, the initial investigation, the determinations of the Secretary (including prior scope determinations) and the International Trade Commission (“ITC”). If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether the merchandise is covered by the order.<sup>42</sup>

Where the descriptions of the merchandise are not dispositive, the Department will consider the following factors, as provided under 19 CFR 351.225(k)(2): i) the physical characteristics of the merchandise; ii) the expectations of the ultimate purchasers; iii) the ultimate use of the product;

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bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

<sup>40</sup> Upholstered beds that are completely upholstered, *i.e.*, containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. *See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 72 FR 7013 (February 14, 2007).

<sup>41</sup> To be excluded the toy box must: (1) be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (“ASTM”) standard F963-03. Toy boxes are boxes generally designed for the purpose of storing children’s items such as toys, books, and playthings. *See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum “Wooden Bedroom Furniture from the People’s Republic of China: Scope Ruling on a White Toy Box,” dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

<sup>42</sup> *See* 19 CFR 351.225(d).

iv) the channels of trade in which the product is sold; and v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

For this proceeding, the Department evaluated University Loft's request in accordance with 19 CFR 351.225(k)(1) and finds that the description of the product contained in the petition, the initial investigation, the determinations by the Secretary (including prior scope determinations), and the ITC are, in fact, dispositive with respect to University Loft's Metropolitan slat beds, metal bed headboards, and nightstand. Therefore, we find it unnecessary to consider the additional factors found in 19 CFR 351.225(k)(2).

### Interested Party Comments and Analysis

#### University Loft's Comments

- University Loft requested that the Department issue a determination that its Metropolitan slat beds (item numbers 50211SKD and 50205SKD), metal headboards (item numbers 50470-12 and 50480-12), and Upperclassman 2 Shelf nightstand (item number 50568-152) are outside the scope of the *WBF Order*. In making this determination, University Loft contends that the Department should initiate a full scope review in order to evaluate the *Diversified Products* criteria set forth at 19 CFR 351.225(k)(2) because the documents referred to at 19 CFR 351.225(k)(1) "are not dispositive of whether the five furniture items covered by this request are subject to the antidumping duty order," particularly because these documents do not provide a standard for determining whether a product is "substantially made of wood."
- Thus, University Loft argues that based on the first *Diversified Products* criterion (*i.e.*, physical characteristics), its Metropolitan slat beds, metal bed headboards, and Upperclassman 2 Shelf nightstand are outside the scope of the *WBF Order* because they are not "substantially made of wood products," as is required by the scope of the *WBF Order*. First, University Loft contends that based on visual appearance, the Metropolitan slat beds, metal bed headboards, and metal night stand are clearly not substantially made of wood: University Loft suggests that if the wood portions of the Metropolitan slat beds, the metal bed headboards, and the metal nightstand were removed, the products would still be identifiable as beds, headboards, and a night stand, respectively, given the prominence of the metal portions. However, if the metal portions of these three items were removed, they would no longer be identifiable as beds, headboards, or a nightstand, respectively. Second, University Loft argues that the weights of the non-wood materials used to construct these items make up a majority of the total product weight for all three products.
- With respect to the second through fourth *Diversified Products* criteria, University Loft states that its Metropolitan slat beds, metal bed headboards, and Upperclassman 2 Shelf

nightstand are sold to colleges, universities, and developers, with the expectation that these products will be used as a bed, headboard, and nightstand, respectively.

- University Loft contends that the fifth *Diversified Products* criterion (*i.e.*, manner in which the product is advertised or displayed) suggests that its Metropolitan slat beds, metal bed headboards, and Upperclassman 2 Shelf nightstand are outside the scope of the *WBF Order* because University Loft advertises the three products as part of its “metal line” of furniture.
- Finally, University Loft contends that even if the Department determines the Metropolitan slat beds are substantially made of wood, the beds are not covered by the scope of the *WBF Order* because they qualify for the exclusion concerning “side rails for beds made of metal if sold separately from the headboard and footboard.”

#### Petitioners’ Comments

- Pursuant to 19 CFR 351.225(k)(1), Petitioners argue that University Loft’s Metropolitan slat beds, metal bed headboards, and metal night stand fall within the scope of the *WBF Order* because they are substantially made of wood. Petitioners contend that there is no need for the Department to initiate a full scope review under 19 CFR 351.225(e) in order to evaluate the factors set forth at 19 CFR 351.225(k)(2).
- Petitioners contend that the word “substantial” is not indicative of a specific percentage of wood, nor does it require that the wood comprise the majority or plurality of the weight of the finished product. Moreover, Petitioners contend that weight is not an appropriate measure for determining whether the Metropolitan slat beds, metal bed headboards, and metal night stand are “substantially made of wood” because metal, by weight, is much heavier than wood and, therefore, the wood will inevitably be a smaller percentage of the overall product weight.
- Finally, Petitioners contend that based upon a visual inspection of their exterior surfaces, the Metropolitan slat beds, metal bed headboards, and metal night stand appear to be comprised primarily of wood; therefore, the Department should find that all of these products are “substantially made of wood.”

#### Target’s Comments

- Target argues the term “substantially made of wood” is “inherently ambiguous” and that any test adopted by the Department in making such a determination would have a “broad impact, beyond the specific products at issue” in this case.
- Target argues that the sources identified in 19 CFR 351.225(k)(1) are not dispositive in interpreting the term “substantially made of wood,” and any criteria the Department considers should be “sufficiently flexible” to apply to the “a broad range of products.”



- Target argues because no clear test exists to interpret this term, the Department should conduct a formal scope inquiry and allow interested parties to comment in this case.

### Analysis

For this proceeding, we disagree with University Loft's assertion that the Department should initiate a full scope review in order to evaluate the *Diversified Products* criteria set forth at 19 CFR 351.225(k)(2). Based on the information on the record, the Department has sufficient information to evaluate University Loft's request in accordance with 19 CFR 351.225(k)(1) and finds that the description of the product contained in the petition, the initial investigation, the determinations by the Secretary (including prior scope determinations), and the ITC are, in fact, dispositive with respect to University Loft's Metropolitan slat beds, metal bed headboards, and an Upperclassman 2 Shelf nightstand. Therefore, consistent with the Department's prior scope rulings concerning the *WBF Order*, we find it unnecessary to consider the additional factors found in 19 CFR 351.225(k)(2).<sup>43</sup>

Further, while the descriptions of the subject merchandise contained in the petition, the investigation, and the determinations of the Secretary (such as prior scope rulings) and the ITC are useful, in discussing the interpretive process that the Department should follow in making scope rulings pursuant to 19 CFR 351.225(k)(1), the Court of Appeals for the Federal Circuit ("CAFC") has stated:

The critical question is not whether the petition covered the merchandise or whether it was at some point within the scope of the investigation. The purpose of the petition is to propose an investigation.... A purpose of the investigation is to determine what merchandise should be included in the final order. Commerce's final determination reflects the decision that has been made as to which merchandise is within the final scope of the investigation and is subject to the order.... Thus, the question is whether the {final scope of the order} included the subject merchandise.<sup>44</sup>

The CAFC also stated that "a predicate for the interpretative process {in a scope inquiry} is language in the order that is subject to interpretation."<sup>45</sup> Thus, "while the petition, factual findings, legal conclusions, and preliminary orders can aid in the analysis, they cannot substitute for the language of the order itself, which remains the 'cornerstone' in any scope determination."<sup>46</sup> Accordingly, the first analysis which the Department must

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<sup>43</sup> See, e.g., Memorandum Regarding: Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling on Acme Furniture Industry, Inc.'s Upholstered Daybeds, dated April 15, 2011 ("*Daybeds from the PRC*") (where the Department considered multiple factors in determining whether Acme's daybeds were "substantially made of wood" and, therefore, were covered by the *WBF Order*).

<sup>44</sup> See *Duferco Steel, Inc. v. United States*, 296 F.3d 1087, 1096 (Fed. Cir. 2002) ("*Duferco*").

<sup>45</sup> See *id.*, at 1097.

<sup>46</sup> *Walgreen Co. of Deerfield, Inc. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

consider in conducting a scope inquiry is to determine whether the product is expressly covered by the language of the scope, or exclusions, of the antidumping duty order. Therefore, the Department first evaluated University Loft's Metropolitan slat beds, metal bed headboards, and metal night stand using the express language of the scope itself, in accordance with 19 CFR 351.225(k)(1).

#### Metropolitan Slat Beds – Item Numbers 50211SKD and 50205SKD

The Department agrees with University Loft's assertion that its Metropolitan slat beds are outside the scope of the *WBF Order*. The Metropolitan slat beds have two components: (1) all metal frames and legs with no headboard or footboard; and (2) wooden cross slats, which provide mattress support.<sup>47</sup> Without question, the metal frames, standing alone, would be excluded from the *WBF Order*. Accordingly, the issue before the Department is whether the metal frames, combined with the wooden cross slats, brings University Loft's beds into the scope of the *WBF Order*.

The marketing materials provided by University Loft confirm that the wood cross slats provide mattress support by stating that the wood slats incorporated into the Metropolitan slat beds "provide the support and bounce that a box spring would. No box spring is necessary."<sup>48</sup> The scope of the antidumping duty order expressly excludes "(2) mattresses, mattress supports (including box springs)." This exclusion was proposed in the Petition of the underlying investigation and there was no further analysis of the phrase "mattress supports" in either the Department's investigation or the ITC's final determination.<sup>49</sup> The extent of the Department's previous analysis of the phrase "mattress supports" is limited to a single scope inquiry, the *Acme Furniture Scope Ruling*, where the Department found "that the scope language of the Order is clear in its exclusion of mattress supports regardless of whether they are constructed with springs/coils."<sup>50</sup> In the instant case, similar to the Department's analysis in the *Acme Furniture Scope Ruling*, University Loft specifically describes the wooden cross slats as serving as mattress supports that lie over the metal frame and sit under a mattress.<sup>51</sup> Therefore, based on the plain language of the scope, and consistent with the *Acme Furniture Scope Ruling*, the Department has concluded that the wooden cross slats, standing alone, would also be excluded from the *WBF Order*.

Petitioners note that University Loft's Metropolitan slat beds that are the subject of the instant scope inquiry include not only the bed but also wooden chests of drawers, which comprise the side of the beds, and headboards, which have a laminated wood insert. Petitioners base this assertion on the marketing materials provided by University Loft, which show a complete

<sup>47</sup> See University Loft's Scope Request at Exhibits B, E, and H.

<sup>48</sup> *Id.*, at Exhibit C.

<sup>49</sup> See *Wooden Bedroom Furniture from China, Investigation No. 731 -TA-1058 (Final)*, 69 FR 42452 (Int'l Trade Comm'n July 15, 2004); see also Attachment 2.

<sup>50</sup> See Memorandum Regarding: Wooden Bedroom Furniture from the People's Republic of China: Acme Furniture Industry, Inc. Final Scope Ruling, dated March 17, 2009 ("*Acme Furniture Scope Ruling*") available at <http://ia.ita.doc.gov/download/prc-wbf/scope/index.html>, and provided *infra* at Attachment 3.

<sup>51</sup> *Id.*, at 5.

bedroom set with a bed with a headboard and a chest of drawers underneath the Metropolitan slat beds.<sup>52</sup> Petitioners argue that because of this additional wood material, the Metropolitan slat beds are “substantially made of wood,” and therefore are covered by the scope of the *WBF Order*. We disagree with Petitioners’ assertion.

While the marketing materials clearly show a headboard and a chest of drawers underneath the Metropolitan slat beds, these items are separate from the Metropolitan slat beds for which University Loft requested that the Department make a scope ruling. Specifically, the headboards referred to by Petitioners are the same headboards the Department is evaluating as a standalone item below.<sup>53</sup> Additionally, in its supplemental response, University Loft confirmed that “the chest of drawers shown in the provided marketing materials do not share the same product number as the Metropolitan slat beds.”<sup>54</sup> “The chest of drawers sold by University Loft Company has a separate and unique product number” and is sold separately.<sup>55</sup> Accordingly, the Metropolitan slat beds only have the two components discussed above (*i.e.*, a metal bed frame and the wood cross slats, which serve as “mattress supports”).

Because both of the components of University Loft’s Metropolitan slat beds are excluded from the scope of the *WBF Order*, we find that pursuant to 19 CFR 351.225(k)(1), the Metropolitan slat beds, taken as a whole, are also not within the scope of the *WBF Order*. Because University Loft’s Metropolitan slat beds are excluded from the scope of the antidumping duty order for the reasons stated above, we have determined it is not necessary to further assess whether University Loft’s beds are “substantially made of wood,” or whether the Metropolitan slat beds qualify for an exclusion from *WBF Order* under the provision concerning “side rails for beds made of metal if sold separately from the headboard and footboard.” We have concluded, however, that such an analysis is warranted for the other furniture for which University Loft has requested a scope inquiry.

#### Metal Headboards – Item Numbers 50470-12 and 50480-12

The Department disagrees with University Loft’s claim that its metal bed headboards are outside the scope of the *WBF Order*. As noted above, in relevant part, the scope of the *WBF Order* specifically covers bedroom furniture, including headboards for beds, which are:

made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

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<sup>52</sup> *Id.*, at Exhibits C and F.

<sup>53</sup> See *infra* at Metal Headboards – Item Numbers 50470-12 and 50480-12.

<sup>54</sup> See University Loft’s Supplemental Response at 3-4.

<sup>55</sup> *Id.*

In a previous scope determination concerning the *WBF Order*, in determining whether or not furniture was “substantially made of wood,” the Department considered whether there was “extensive use of wood products in all of the essential structural components” of the product, and whether “the wood in this product was integral to its composition” to the extent that “if the wood were removed,” the furniture at issue would not exist.<sup>56</sup> We have considered those questions in light of the facts of this case and have simplified and clarified the analysis to two questions: (1) how extensive is the use of wood products in the composition of the furniture; and (2) are the wood products in the furniture integral to its composition to the extent that if the wood products were removed, the resulting item is substantially different from the item when the wood products were still part of it?

In this case, University Loft’s metal bed headboards are composed of a piece of laminated particleboard surrounded by a metal frame, and the visible surfaces of the headboards are almost entirely comprised of the laminated particleboard. Without question, the laminated particleboard panels fall within the description of wood products in the scope of the *WBF Order*.<sup>57</sup> A considerable portion of the face of the metal bed headboards consists of the laminated panel made of particleboard. Since the particleboard panels are a considerable portion of the headboards, we have concluded that the laminated particleboard panels make up an extensive portion of the headboards. Further, we have determined that the particleboard panels are integral to the composition of the headboards to the extent that if the particleboard panel was removed, the headboards would be substantially different, both visually and physically. Accordingly, the Department has determined that University Loft’s metal bed headboards are “substantially made of wood.”

University Loft has argued that the Department should apply two different factors in determining whether or not its metal bed headboards are “substantially made of wood.” First, University Loft argues that when construing terms like “substantially,” the Department has emphasized in other scope decisions that visual appearance is a critical factor, and a “visual inspection” of the pictures of the headboards in this case reveals that the “bulk” of the headboards is metal, not wood. University Loft cites to a final scope ruling concerning the antidumping duty order on Folding Metal Tables and Chairs (“FMTCs”) from the PRC.<sup>58</sup> In that case, the Department stated that “visual appearance” is a physical characteristic that could be considered in determining whether a papason moon chair was made “primarily or exclusively” of metal.<sup>59</sup> Therefore, University Loft argues that because the terms “substantially” and “primarily” are closely related, it is logical for the Department’s approach to analyzing whether an item is “primarily” comprised of a material to inform the Department’s approach to analyzing whether an item is “substantially” made of a material. In addition, University Loft suggests that if the

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<sup>56</sup> See, e.g., *Daybeds from the PRC* (where the Department considered multiple factors in determining whether Acme’s daybeds were covered by the *WBF Order* and found “upholstered daybeds” to be encompassed within the scope, even where the upholstery materials comprised 66 percent of the finished product.).

<sup>57</sup> See University Loft’s Scope Request at Exhibits B and I-M.

<sup>58</sup> See, e.g., Memorandum Regarding: Final Scope Ruling of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People’s Republic of China (A-570-868); Mac Industries (Shanghai) Co., Ltd., Jiaying Yinmao International Trading Company, Ltd and Fujian Zenithen Consumer Products Company Ltd., dated May 2, 2006.

<sup>59</sup> *Id.*

wood portions of the metal bed headboards were removed, they would still be visually identifiable as headboards. Conversely, University Loft suggests that if the metal portions of these items were removed, they would no longer be identifiable as headboards.

Second, University Loft argues that the Department should consider the weight of the individual pieces of its headboards. By weight, wood comprises only 21.86 percent of University Loft's twin-sized headboard, and only 27.41 percent of its full-sized headboard. University Loft argues that this means that the headboards are "principally" made from metal.<sup>60</sup> University Loft suggests that in past scope determinations, when the Department has used terms like "substantially" in scope descriptions, the Department's practice has been to specify that these terms are to be measured according to weight. For example, University Loft cites two cases (*i.e.*, the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela, and the antidumping duty order of manganese metal from the PRC) to suggest that the Department generally relies on product weights when interpreting words like "substantially."<sup>61</sup>

The Department does not agree that mere visual inspection, or the weight of individual sections of University Loft's metal headboards, are sufficient factors, alone, to ultimately conclude if the wood content of the bed is "substantial" for purposes of the scope of the *WBF Order*.

While the Department agrees that visual appearance is one factor to consider in determining whether the metal headboards are within the scope of the *WBF Order*, the Department does not agree that it is the only factor to consider, which is consistent with the Department's statement in *FMTCS from the PRC* that "visual appearance" is a physical characteristic that *could be* considered.<sup>62</sup> University Loft suggests that the Department should conclude that if furniture continues to be identifiable upon sight if the wood portions were removed, then the content of the wood must not be "substantial." We disagree that such a fact, alone, would be determinative. A product could continue to look like the piece of furniture that it is if wood portions were removed, but if the furniture was, in fact, materially different in character without the wood content, the Department would consider that fact as well as part of its analysis.

Furthermore, we disagree with University Loft that the terms "substantially" and "primarily" are interchangeable. Furniture can be "substantially" made up of two or more products.

With respect to University Loft's arguments about the weight of the metal and wood in its headboards, as University Loft recognizes, the scope of the Orders in the cases cited by University Loft specifically referred to weight as a measure for determining if a particular

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<sup>60</sup> See University Loft's Scope Request at Exhibit B.

<sup>61</sup> See *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Orders: Silicomanganese from India, Kazakhstan, and Venezuela*, 67 FR 36149 (May 23, 2002) (where the scope indicated that the ferroalloys subject to the orders were composed "principally" of certain elements then identified the weights of these elements that would satisfy the "principally" standard) ("*Silicomanganese from India, Kazakhstan, and Venezuela*"); see also *Manganese Metal from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12440 (March 13, 1998) (where the scope description indicated that the type of metal covered by the Order was "composed, *principally, by weight*, of manganese").

<sup>62</sup> *Id.* (*emphasis added*).

product was within the scope of the respective Orders.<sup>63</sup> In this case, the scope language makes no mention of product weight as a means of interpreting the word “substantial.” Further, the Department agrees with Petitioners’ assertion that weight is not a suitable measure for deciding whether the metal headboards are “made substantially of wood” in this case. A comparison of the weight of the wood and metal in the piece of furniture under consideration does not necessarily accurately reflect the extent to which each material was used in the furniture when the materials typically have different unit weights. Such a comparison reflects the difference in the unit weights of the materials used and not just how extensive their use was in the furniture. Thus, the Department cannot accurately measure whether the headboards are “made substantially of wood” by comparing the weight of metal to the weight of wood in the product.

Finally, despite University Loft’s argument, because the Department finds that the metal bed headboards are within the scope of the *WBF Order* pursuant to 19 CFR 351.225(k)(1), without analyzing the headboards under the *Diversified Products* criterion presented by 19 CFR 351.225(k)(2), it is not necessary for the Department to assess how University Loft advertises or displays its headboards.

Accordingly, as we’ve explained above, we have concluded that University Loft’s headboards are composed of an extensive amount of wood, and the wood panels are integral to the composition of University’s loft’s headboards. Thus, the Department has determined that University Loft’s metal bed headboards are “substantially made of wood” and are covered by the scope of the *WBF Order*.

#### Upperclassman 2 Shelf nightstand – 50568-152

With respect to University Loft’s assertion that its Upperclassman 2 Shelf nightstand (“nightstand”) is outside the scope of the *WBF Order*, we disagree. As noted above, in relevant part, the scope of the *WBF Order* specifically covers products which are “made substantially of wood products,” including “night tables, night stands.”

In this case, University Loft describes its nightstand as primarily composed of metal and two “high pressure laminate” particleboard panels.<sup>64</sup> As it argues with respect to its headboards, University Loft contends that the nightstand is not “made substantially of wood.” University Loft provides the same two arguments put forth for its metal headboards to support this contention: (1) University Loft argues that when construing terms like “substantially,” the Department has emphasized that visual appearance is a critical factor, and a “visual inspection” of the pictures of the nightstand in this case reveals that the “bulk” of the nightstand is metal, not wood; (2) University Loft argues that, by weight, wood comprises only 30.89 percent of the

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<sup>63</sup> See *Silicomanganese from India, Kazakhstan, and Venezuela* 67 FR at 36149; see also *Notice of Amended Final Determination and Antidumping Duty Order: Manganese Metal From the People's Republic of China*, 61 FR 4415, 4417 (February 6, 1996).

<sup>64</sup> See University Loft’s Scope Request at Exhibits B and P.

nightstand and, therefore, it is “principally” made from metals.<sup>65</sup> For the same reasons noted above, the Department disagrees with both of University Loft’s arguments.<sup>66</sup>

As explained above, in determining whether or not furniture is “substantially made of wood,” in this case, the Department has considered: (1) how extensive is the use of wood products in the composition of the furniture; and (2) are the wood products in the furniture integral to its composition to the extent that if the wood products were removed, the resulting item is substantially different from the item when the wood products were still part of it?

While the frame of the nightstand consists of metal, the visible top and bottom surfaces of the nightstand are almost entirely comprised of laminated particleboard, which falls within the description of wood products in the scope of the *WBF Order*.<sup>67</sup> Based on this fact, the Department has determined that there is extensive use of laminated particleboard in the product. Furthermore, we believe the laminated particleboard is an integral part of the product. If University Loft removed the laminated particleboard from this nightstand, only a metal frame would remain. Accordingly, we have concluded that were the particleboard removed from the product, the resulting product would be substantially different, both visually and physically. Thus, we have concluded that University Loft’s nightstand is “substantially made of wood.”

Finally, despite University Loft’s argument, because the Department finds that the nightstand is within the scope of the *WBF Order* pursuant to 19 CFR 351.225(k)(1), without analyzing the nightstand under the *Diversified Products* criterion presented by 19 CFR 351.225(k)(2), it is not necessary for the Department to assess how University Loft advertises or displays its nightstand.

Consequently, because the Department has determined that the nightstand is “substantially made of wood,” and covered by no scope exclusions, we have concluded that University Loft’s product is covered by the scope of the *WBF Order*.

#### Target’s Arguments

The Department agrees with Target that we should consider uniform criteria in all cases involving the scope of the *WBF Order* when analyzing whether or not certain furniture is “substantially made of wood.” The Department did provide such criteria in the *Daybeds from the PRC* scope inquiry, and in this case, we have further simplified and clarified the criteria analyzed by the Department in determining if furniture is “substantially made of wood.” We also agree that these criteria should be “sufficiently flexible to accommodate a broad range of products,” and we believe the criteria articulated in this case satisfy this standard.

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<sup>65</sup> See University Loft’s Scope Request at Exhibit B.

<sup>66</sup> For a detailed discussion of the Department’s analysis of University Loft’s arguments, see *supra* at “Metal Headboards – Item Numbers 50470-12 and 50480-12.” The Department is rejecting University Loft’s two arguments concerning its metal nightstand for the same reasons it rejected these same two arguments in the context of its metal bed headboards.

<sup>67</sup> See University Loft’s Scope Request at Exhibits B and N-P.

On the other hand, we disagree with Target that the Department should apply the *Diversified Products* factors of 19 CFR 351.225(k)(2). As stated above, the Department has determined that University Loft's metal slat beds are expressly covered by the exclusions contained within the scope of the *WBF Order*, while its metal headboards and nightstand are covered by the scope, pursuant to its analysis of 19 CFR 351.225(k)(1). Accordingly, no further analysis is warranted.

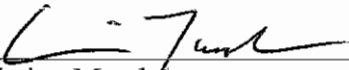
**Recommendation**

In accordance with 19 CFR 351.225(k)(1), based upon the above analysis, we recommend the Department find that University Loft's twin-sized Metropolitan slat bed (item number 50211SKD) and full-sized Metropolitan slat bed (item number 50205SKD) are outside the scope of the *WBF Order*. In addition, we recommend the Department find that University Loft's twin-sized metal bed headboard (item number 50470-12), full-sized metal bed headboard (item number 50480-12), and Upperclassman 2 Shelf nightstand (item number 50568-152) are within the scope of the *WBF Order*.

✓

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree



Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

12/13/11

\_\_\_\_\_  
Date



## Attachment 1

University Loft Company ■ Metropolitan Series










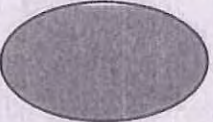
**METROPOLITAN SLAT BEDS**

Our Metropolitan slat bed is a great sleeping solution. Comprised of wood slats that are spring loaded, they provide the support and bounce that a box spring would. These beds are offered with three different leg heights. Placing the bed on higher legs will allow for storage under the bed. No box spring is necessary with slat beds from University Loft. Available in Twin and Full sizes.



Natural Twin Slat Bed

**AVAILABLE FINISH OPTIONS**

Laminate						
	Wild Cherry	Fusion Maple	Tuscan Walnut	Empire Mahogany	Espresso	Cafelle
Metal						
	Stealth Black	Brushed Nickel	Sierra Brown	Kessler Silver		



# TECHNICAL SPECIFICATION

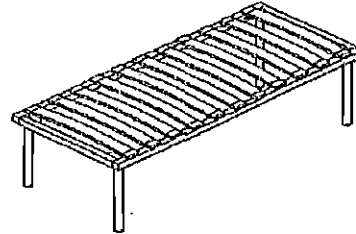
## 50211SKD

### Description

Twin Size Metal Slat Bed

### Size

36"W X 81" D X 23"H



### Sleep surfaces

Sleep surface shall be a standard width with extra length and shall encompass three main materials: high carbon steel, frequency bent plywood, and polyurethane or Mylar. Each independent sleep surface shall have 14 frequency bent 7-ply environmentally farmed plywood slats for a minimum 28 independent sleeping supports. Where bent plywood is called for no other material shall be considered adequate.

### Legs

This bed shall have 4 legs attached with Allen-head bolts. Bed shall be dead weight tested up to 4000 lbs.

### Steel

All steel shall be cold rolled, oil treated, dimension stock steel with special O.D. special killed ASTM standard A620. Low carbon steel shall be ASTM A366 standard with the highest-grade carbon quality available. All steel shall be commercial grade quality cold-rolled sheet grade conforming to international standards. Weight per sheet in lbs shall be 120 lbs per 60" x 144" size sheet.

### Tubing

All metal tubing shall be 1 1/2" x 1 1/2" and shall be 100% modular, steel to steel construction, which shall be stationary welded for no replacements parts (no screw attachment required). Sizes less than 1 1/2" x 1 1/2" will not be acceptable.

### Gauge

All steel shall be for heavy-duty use and is to have an expected useful life of 30 years. All Square tubes shall be 1.2mm (18 gauge). Where 1.2mm (18 gauge) is called for no other material shall be considered adequate.

### Open Surfaces

All open surfaces shall have heavy-duty gauged black plastic inserts on any exposed floor surface, and shall be securely fastened in such a manner as to be fit in accordance for heavy-duty institutional use.

### Finish

All finished shall be electro-statically applied utilizing environmentally friendly, state of the art, electro-static painting processes. All surfaces shall be triple coated, cleaned, washed, and sprayed with top sealers prior to the 21-step paint finish. All paint shall carry a minimum of a 10-year manufacturer warranty for peeling and chipping. Finish markers for touch-up shall be supplied at customer's request. The finish shall be OXYPLAST colors.

### Welding

All welding shall be smooth to the touch and visually without dimple or indentation, which would cause visual adversity or effect structural integrity of the tubing. All welds shall be sanded to a minimum thickness of .7mm. Joints thinner than .7mm will not be accepted.

### Slat

Bent plywood slats are to have a thickness of 5/8" and a width of 2 3/8"W and constructed of 7 PLYS. Finish on slats is to be nitrocellulose sealer.

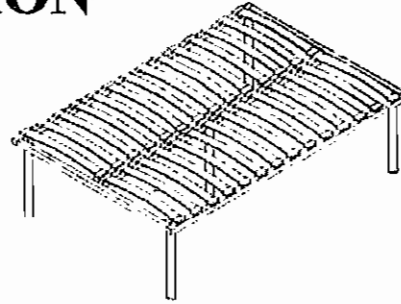
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# TECHNICAL SPECIFICATION

## 50205SKD



### Description

Full Size Metal Slat Bed.

### Size

54"W X 80" D X 23"H

### Sleep Surfaces

Sleep surface shall be a standard width with extra length and shall encompass three main materials: high carbon steel, frequency bent plywood, and polyurethane or Mylar. Each independent sleep surface shall have 14 frequency bent 7-ply environmentally farmed plywood slats for a minimum 28 independent sleeping supports. Where bent plywood is called for no other material shall be considered adequate.

### Legs

This bed shall have 4 legs attached with Allen-head bolts. In addition, there shall be a center leg attached to the bed frame with a U-shaped channel located at the top of the leg. Bed shall be dead weight tested up to 4000 lbs.

### Steel

All steel shall be cold rolled, oil treated, dimension stock steel with special O.D. special killed ASTM standard A620. Low carbon steel shall be ASTM A366 standard with the highest-grade carbon quality available. All steel shall be commercial grade quality cold-rolled sheet grade conforming to international standards. Weight per sheet in lbs shall be 120 lbs per 60" x 144" size sheet.

### Tubing

All metal tubing shall be 1 1/2" x 1 1/2" and shall be 100% modular, steel to steel construction, which shall be stationary welded for no replacements parts (no screw attachment required). Sizes less than 1 1/2" x 1 1/2" will not be acceptable.

### Gauge

All steel shall be for heavy-duty use and is to have an expected useful life of 30 years. All Square tubes shall be 1.2mm (18 gauge). Where 1.2mm (18 gauge) is called for no other material shall be considered adequate.

### Open Surfaces

All open surfaces shall have heavy-duty gauged black plastic inserts on any exposed floor surface, and shall be securely fastened in such a manner as to be fit in accordance for heavy-duty institutional use.

### Finish

All finished shall be electro-statically applied utilizing environmentally friendly, state of the art, electro-static painting processes. All surfaces shall be triple coated, cleaned, washed, and sprayed with top sealers prior to the 21-step paint finish. All paint shall carry a minimum of a 10-year manufacturer warranty for peeling and chipping. Finish markers for touch-up shall be supplied at customer's request. The finish shall be OXYPLAST colors.

### Welding

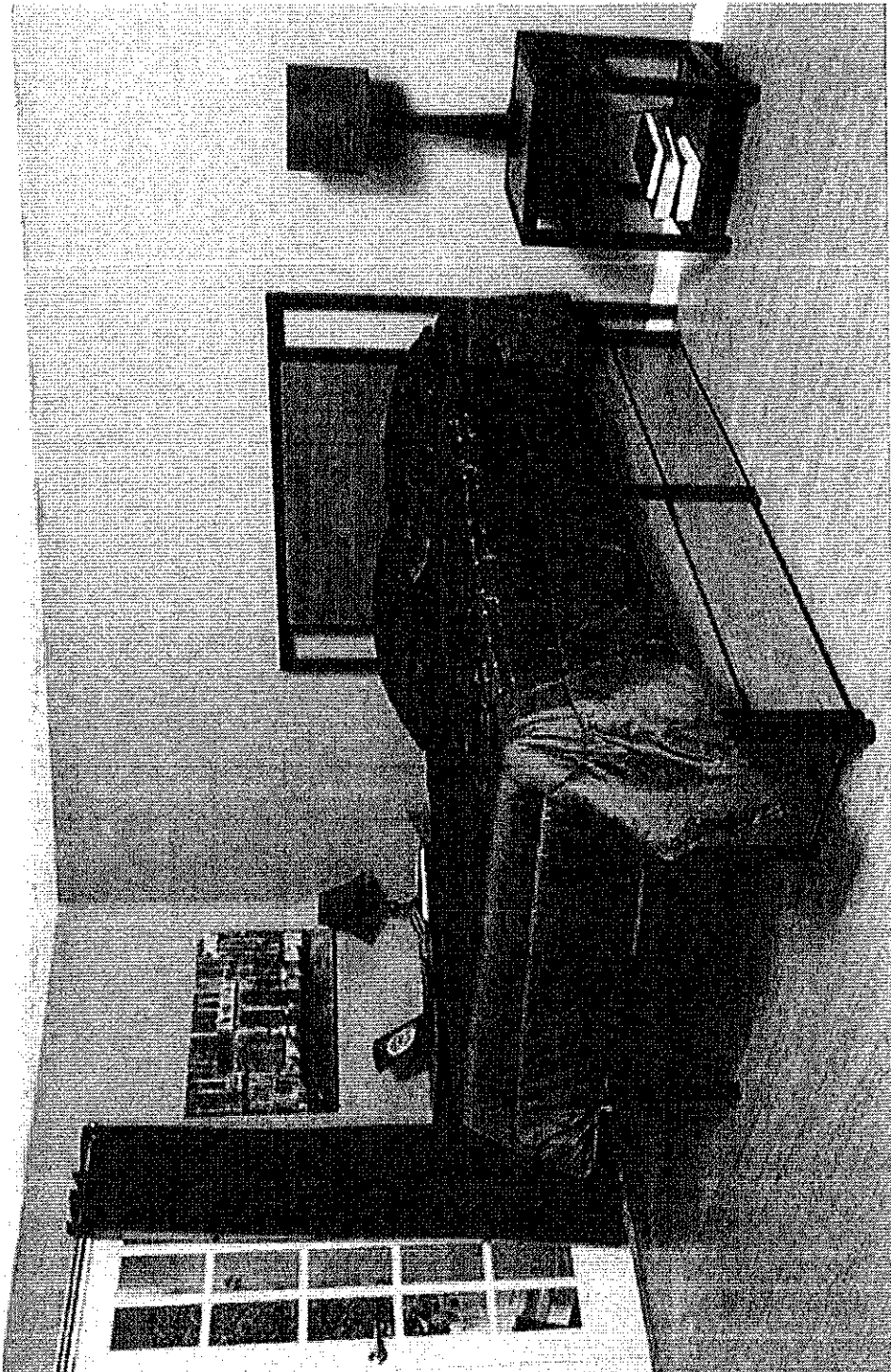
All welding shall be smooth to the touch and visually without dimple or indentation, which would cause visual adversity or effect structural integrity of the tubing. All welds shall be sanded to a minimum thickness of .7mm. Joints thinner than .7mm will not be accepted.

### Slat

Bent plywood slats are to have a thickness of 5/8" and a width of 2 3/8"W and constructed of 7 PLYS. Finish on slats is to be nitrocellulose sealer.

#### CONFIDENTIALITY NOTICE:

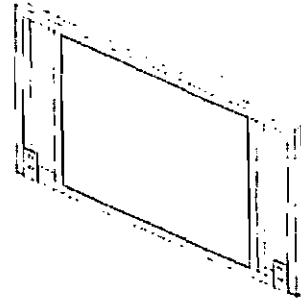
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# TECHNICAL SPECIFICATION

## 50470-12



### Description

Twin size metal headboard with laminate inset panel

### Size

36"W X 1 1/2"D X 24"H

### Laminate Panel

Top shall be high-pressure laminate on 45lb particleboard core with 2mm wood grain PVC edge banding and a balanced backing sheet. Top surface shall be covered with 1/32" high-pressure laminate, applied with heat and pressure. Panel fastened to frame with screws.

### Steel

All steel shall be cold rolled, oil treated, dimension stock steel with special O.D. special killed ASTM standard A620. Low carbon steel shall be ASTM A366 standard with the highest-grade carbon quality available. All steel shall be commercial grade quality cold-rolled sheet grade conforming to international standards. Weight per sheet in lbs shall be 120 lbs per 60" x 144" size sheet.

### Tubing

All metal tubing shall be 1 1/2" x 1 1/2" and shall be 100% modular with exclusion to non-load bearing decorative elements. Sizes less than 1 1/2" x 1 1/2" will not be acceptable.

### Gauge

All steel shall be for heavy-duty use and is to have an expected useful life of 30 years. All Square tubes shall be 1.2mm (18 gauge). Where 1.2mm (18 gauge) is called for no other material shall be considered adequate.

### Open Surfaces

All open surfaces shall have heavy-duty gauged black plastic inserts on any exposed floor surface, and shall be securely fastened in such a manner as to be fit in accordance for heavy-duty institutional use.

### Metal Finish

All finished shall be electro-statically applied utilizing environmentally friendly, state of the art, electro-static painting processes. All surfaces shall be triple coated, cleaned, washed, and sprayed with top sealers prior to the 21-step paint finish. All paint shall carry a minimum of a 10-year manufacturer warranty for peeling and chipping. Finish markers for touch-up shall be supplied at customer's request. The finish shall be OXYPLAST colors.

### Welding

All welding shall be smooth to the touch and visually without dimple or indentation, which would cause visual adversity or effect structural integrity of the tubing. All welds shall be sanded to a minimum thickness of .7mm. Joints thinner than .7mm will not be accepted.

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Filed By: deb.behrns@chrobinson.com, Filed Date: 10/31/11 4:36 PM, Submission Status: Approved

University Loft Company - Upperclassman 2 Shelf Nightstand - Windows Internet Explorer

http://www.u-loft.com/products?page=shop.product\_details&flypage=flypage.tpl&product\_id=1829&category\_id=138

File Edit View Favorites Tools Help

University Loft Company - Upperclassman 2 Shelf Nig...

Monday, 04 April 2011 | Careers | Recommend

Search... 3 letters min

Home Company **Products** Marketing Loft TV Customer Care Outlet Store

UNIVERSITY LOFT CO. 25th ANNIVERSARY

Home • Products • Loft - Consumer Products • Bedrooms • Upperclassman Series • Upperclassman 2 Shelf Nightstand

← Teardrop Chair Upperclassman Bunk Bed Setup →

## Upperclassman 2 Shelf Nightstand

Ask a question about this product

**NIGHTSTAND:** (semi-knockdown) Nightstand with two laminate shelves and decorative metal frame. High Sheen Brushed Nickel frame, Fusion Maple laminate shelves.

Assembled dimensions: 18"W x 18"D x 24"H

Frame finish: Jonon Powder Coatings MNS308 C 03344 J

This contemporary line combines the cool edge of metal and the warm strength of wood. Our Upperclassman Series offers the same great design configurations as our other styles, but in a bold new look. The construction methods used for this line allow for full replacement of components and parts. This line is built tough enough to withstand everyday wear and maintain its appearance over the years. Upperclassman Series features brush nickel metal with a selection of either natural finish or wild cherry finish which allows you to tailor the Upperclassman Series to meet your design and budget needs. The Upperclassman Series allows for endless possibilities from the Twin Bed to the Triple Lindy Loft.



View Full-Size Image

Availability:

Usually ships in:

- days

Done

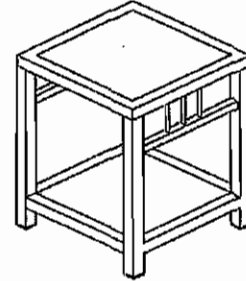
Start | University Loft Company... | Inbox - Deb.Behrns@chr... | University Loft Comp... | Presentation1 - Microsof... | Internet | 100% | 12:39 PM

Official Document: A-570-890 Barcode:3038348-04 SCO - Scope Inquiry



# TECHNICAL SPECIFICATION

## 50568-12



### Description

Nightstand with decorative metal frame. Includes inset laminate top and shelf

### Size

18"W x 18"D x 24"H

### Top

Top shall be high-pressure laminate on 45lb particleboard core with 2mm wood grain PVC edge banding and a balanced backing sheet. Top surface shall be covered with 1/32" high-pressure laminate, applied with heat and pressure. Top fastened to case with screws.

### Steel

All steel shall be cold rolled, oil treated, dimension stock steel with special O.D. special killed ATM standard A620, Low carbon steel shall be ASTM A366 standard with the highest-grade carbon quality available. All steel shall be commercial grade quality cold-rolled sheet grade conforming to international standards. Weight per sheet in lbs shall be 120 lbs per 60" x 144" size sheet.

### Tubing

All metal tubing shall be 1 1/2" x 1 1/2" and shall be 100% modular with exclusion to non-load bearing decorative elements. Sizes less than 1 1/2" x 1 1/2" will not be acceptable.

### Joints

Joints shall be within 1/1000 +/- . All joints shall be University Loft Expansion Allen-head bolt Lock design. All connections shall have multiple spot-welds to cover and secure hardware so that it is not visible. Non-structural joints shall be welded with spot welds and structural welds shall carry a full 360-degree weld. All welds shall be cleaned, polished, and sanded for a smooth uniform look and finish.

### Gauge

All steel shall be for heavy-duty use and is to have an expected useful life of 30 years. All Square tubes shall be 1.2mm (18 gauge). Where 1.2mm (18 gauge) is called for no other material shall be considered adequate.

### Open Surfaces

All open surfaces shall have heavy-duty gauged black plastic inserts on any exposed floor surface, and shall be securely fastened in such a manner as to be fit in accordance for heavy-duty institutional use.

### Metal Finish

All finished shall be electro-statically applied utilizing environmentally friendly, state of the art, electro-static painting processes. All surfaces shall be triple coated, cleaned, washed, and sprayed with top sealers prior to the 21-step paint finish. All paint shall carry a minimum of a 10-year manufacturer warranty for peeling and chipping. Finish markers for touch-up shall be supplied at customer's request. The finish shall be OXYPLAST colors.

### Welding

All welding shall be smooth to the touch and visually without dimple or indentation, which would cause visual adversity or effect structural integrity of the tubing. All welds shall be sanded to a minimum thickness of .7mm. Joints thinner than .7mm will not be accepted.

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## Attachment 2



UNITED STATES DEPARTMENT OF COMMERCE  
International Trade Administration  
Washington, D.C. 20230

OFFICIAL FILE

A-570-890  
Investigation  
Public Document  
IA08: EY

2630

November 8, 2004

MEMORANDUM TO: Laurie Parkhill  
Office Director  
AD/CVD Enforcement

THROUGH: Robert Bolling *RB*  
Program Manager

FROM: Erol Yesin *EY*  
Case Analyst

SUBJECT: Final Determination: Wooden Bedroom Furniture from the  
People's Republic of China - Comments on the Scope of the  
Investigation

### Background

This memorandum addresses comments received prior to the preliminary determination published June 24, 2004, and comments received by July 30, 2004, based on our scope memorandum dated June 17, 2004.<sup>1</sup>

On January 13, 2004, Markor International Furniture (Tianjin) Manufacture Co., Ltd. ("Markor"), Lacquer Craft Manufacturing Company, Ltd., ("Lacquer Craft") and the Committee for Free Trade Furniture ("CFTF") provided comments concerning whether home office pieces are included in the scope of the investigation. On July 29, 2004, Birchfield Design Group, Inc. ("Birchfield") provided comments recommending that the Department limit the scope of the investigation to matching furniture sold in suites and as suites. On July 29, 2004, Home Decorators, Inc. ("HDC"), provided comments concerning exclusion of wooden ready-to-assemble furniture from the PRC. On July 30, 2004, The Neiman Marcus Group ("NMG") provided comments concerning the use of the "in suite" language in the scope as a means of

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<sup>1</sup> See Memorandum from Laurel LaCivita, Senior Case Analyst, through Robert Bolling, Program Manager, to Laurie Parkhill, Office Director for China/NME Group 8: Preliminary Determination: Wooden Bedroom Furniture from the People's Republic of China in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China, June 17, 2004.

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interpreting the scope. On July 30, 2004, LTD Commodities, LLC ("LTD"), and ABC Distributing, LLC ("ABC"), provided comments concerning the exclusion of RTA wooden bedroom furniture from the scope of this investigation. On July 30, 2004, the Bombay Company, J.C. Penney Corporation Inc., and Crate and Barrel, members of the Furniture Retailers of America ("FRA"), provided comments to limit the scope of investigation to bedroom products that are typically sold as a part of bedroom suites. On July 30, 2004, Guangzhou Marie Yee Furnishings Ltd., Pyla HK Ltd., and Maria Yee, Inc. ("Maria Yee"), provided comments requesting clarification on the standards for determining whether certain furniture products constitute bedroom furniture for purpose of this investigation. On July 30, 2004, Sunrise Medical Inc. ("Sunrise Medical") provided comments concerning patient-room furniture used in the long-term care, nursing home, or similar markets. On July 30, 2004, Dorel Asia ("Dorel") provided comments that RTA/knock-down bedroom furniture should be excluded from the scope of this investigation. On July 30, 2004, Importers' Coalition provided comments recommending that the Department exclude furniture parts not included in the scope of the investigation and day beds. On July 30, 2004, Tumac Lumber Co., Inc. ("Tumac"), provided comments recommending that imported parts that are not specifically identified in the scope should be excluded from the investigation. On July 30, 2004, Shing Mark Enterprise Co. Ltd. ("Shing Mark Group") provided comments concerning "made substantially of wood" and day beds.

On August 6, 2004, Petitioners<sup>2</sup> provided rebuttal comments responding to the above-mentioned comments concerning patient-room furniture, the exclusion of pieces not sold in suites, the inclusion of furniture parts, the exclusion of day beds, the standard of "made substantially of wood," home office pieces, and RTA furniture.

On August 6, 2004, LTD and ABC submitted rebuttal comments proposing specific language to exclude RTA wooden bedroom furniture from the scope of the investigation. Also, on August 6, 2004, Sunrise Medical provided rebuttal comments proposing specific language to exclude patient-care furniture products from the scope of the investigation.

On August 31, 2004, the Department issued a decision memorandum to exclude jewelry armoires and cheval mirrors from the scope of the investigation.<sup>3</sup> Petitioners agreed that the existing scope

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<sup>2</sup> The American Furniture Manufacturers Committee for Legal Trade and its individual members and the Cabinet Makers, Millmen, and Industrial Carpenters Local 721, UBC Southern Council of Industrial Worker's Local Union 2305, United Steel Workers of American Local 193U, Carpenters Industrial Union Local 2093, and Teamsters, Chauffeurs, Warehousemen and Helper Local 991.

<sup>3</sup> See Memorandum from Robert Bolling, Program Manager, to Laurie Parkhill, Office Director for China/NME Group 8: Issues and Decision Memorandum Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China ("Certain Jewelry Armoires and Cheval Mirrors

language with respect to what kinds of armoires and mirrors are included within the scope of investigation needed to be clarified. Subsequently, Petitioners submitted scope language to exclude jewelry armoires and cheval mirrors. The amended scope language is as follows:

*"The scope of the Petition excludes:....any armoire, cabinet, or other accent item for the purpose of storing jewelry, not to exceed 24" in with, 18" in depth, and 49" in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door lined with felt or felt-like material, with necklace hangers, and a flip-top lid with inset mirror."*

*"The scope of the Petition excludes:...(10) Cheval mirrors, i.e., any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor standing, hinged base."*

Similarly, on September 23, 2004, Petitioners concurred that the scope language with respect to mirrors that are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set in the scope of the investigation should be modified in order to eliminate ambiguity. On September 30, 2004, the Department issued a decision memorandum to amend the scope of the investigation to include only mirrors that are designed or otherwise intended to be sold in combination with a dresser.<sup>4</sup> Accordingly, Petitioners submitted the following modified scope language for mirrors:

*"The scope of the Petition excludes:..mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set."*

**LIST OF ISSUES SUMMARIZED**

**PAGE**

Comment 1: Limited to Products Sold In Suites .....	4
Comment 2: Day Beds .....	7
Comment 3: Inclusion of Parts .....	8
Comment 4: "Made Substantially of Wood" .....	10
Comment 5: Long-Term Care Market .....	11
Comment 6: Ready-to-Assemble ("RTA") Bedroom Furniture .....	13

Decision Memorandum"), August 31, 2004.

<sup>4</sup> See Memorandum from Robert Bolling, Program Manager, to Laurie Parkhill, Office Director for China/NME Group 8: Issues and Decision Memorandum Concerning Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China ("Certain Mirrors Decision Memorandum"), September 30, 2004.

Comment 7: Home Office Pieces ..... 17

**Comment 1: Limited to Products Sold In Suites**

Birchfield contends that the definition of “bedroom furniture” is overly broad. Birchfield argues that furniture placed in bedrooms vary greatly and certain pieces can be used in numerous ways. Therefore, for clarity, Birchfield contends that the scope of the investigation should define bedroom furniture to include only those pieces typically sold in suites as suites, including beds, dressers, chest of drawers, night stands, and armoires.

Additionally, Maria Yee argues that the scope description is overly broad and must be clarified. In particular, Maria Yee recommends that the Department must specify standards for determining which furniture products are bedroom furniture for purposes of this investigation and must designate a more complete list of specifically excluded furniture items.

Maria Yee asserts that the scope of the investigation should be limited to a set of traditional, or “core”, bedroom products that are commonly associated with use solely within the bedroom. Maria Yee contends that, based on the definition of the essential character of traditional bedroom furniture, the scope of this investigation should be limited to the bed, including headboards, footboards, rails, and slats. Maria Yee also asserts that items such as night stands, but not tables or chests that may on occasion be used as night stands, and wardrobe cabinets, chests, and dressers for clothing storage should also be included as part of a set of traditional bedroom furniture since these items are used in connection with sleeping, dressing, or for the storage of clothes.

Further, Maria Yee contends that multi-functional products, which are not designed or sold exclusively or solely used for the bedroom, should not be included as part of the scope of this investigation. For example, Maria Yee asserts that furniture items such as armoires, chests, and cabinets with drawers too small to hold clothing and intended as accent pieces for the living room and other non-bedroom areas of the home should be treated as outside of the scope of the investigation.

Furthermore, Maria Yee argues that certain tables designed for and intended to be used in other rooms which can be used also as night stands should not qualify as bedroom furniture. Maria Yee asserts that only tables designed and sold exclusively as night stands, in the manner of a night stand included with a bedroom suite, qualify as bedroom furniture.

Citing pictures and specifications attached to its submission, Maria Yee contends that a number of furniture items it offers have been used traditionally in rooms other than the bedroom even though they may be sold for or used in a bedroom. For example, Maria Yee states that the Ming cabinet and Japanese Tansu are designed as general storage pieces and accent tables are used in entry ways and hallways traditionally for storage and accent. While these pieces may be placed in a bedroom, Maria Yee asserts that, traditionally, they are neither included in a bedroom set nor

are they exclusively designed, sold for, or solely used in the bedroom.

Accordingly, Maria Yee requests that the Department specify, as part of the clarification of the scope, that the items mentioned above are not covered by the investigation.

NMG argues that the scope description is ambiguous and that a clarification is necessary. In particular, NMG requests that the Department clarify the "in suite" language of the scope when it comes to differentiating bedroom furniture chests from unique decorative chests and other occasional pieces.

NMG asserts that Petitioners have drawn a distinction between decorative and bedroom chests and stated clearly in the Petition that certain decorative chests that have unusual shapes or dimensions or highly stylized and decorative patterns are excluded from the scope of the investigation. Because Petitioners themselves have highlighted the differences, NMG contends that the Department should include in the scope language the same objective factors to distinguish in-scope wooden bedroom furniture from other residential wooden furniture.

The FRA contends that the scope of the investigation as it is written currently is unnecessarily broad and ambiguous. The FRA asserts that the Department should limit its list of products that are within the scope of the investigation to a group of "core" bedroom products that are typically sold as part of bedroom suites.

The FRA contends that "core" products that are included within the scope should be limited to beds (including headboards, footboards, side rails, and slats), dressers for clothing storage, night stands, wardrobe cabinets, and chests. The FRA argues that the scope should also be clarified to limit the dimensions of dressers, chests, and wardrobe cabinets to those that are large enough to be used for the purpose of clothing storage.

The FRA argues that the scope as written currently could be interpreted to include many products that are never or rarely sold as part of a bedroom suite. The FRA contends that these products are neither designed nor intended for use solely in the bedroom nor produced by Petitioners. For example, the FRA asserts, the scope could be read to include all framed mirrors greater than a certain size and all accessory items that sometimes might be found in the bedroom, living room, or other room. Therefore, the FRA requests that the Department modify the scope of the investigation explicitly to exclude framed mirrors that are not incorporated in, attached to, or sold in combination with dressers, jewelry storage products, such as jewelry armoires, jewelry chest, and jewelry wardrobes, other accessory products that can sometimes be used in the bedroom, such as quilt/towel racks, luggage racks, and vanity tables, products intended for primary use not in the bedroom, and hand-painted furniture from the scope of the investigation.

Petitioners contend that the FRA's request for the Department to limit the scope of the investigation to a group of "core" bedroom products that are typically sold as part of bedroom suites because "the Petition itself, and the testimony of Petitioners' counsel at the ITC

Preliminary Conference, acknowledged that the subject wooden bedroom furniture is commonly or generally included in a suite, is baseless.

Petitioners assert that the Petition states that the wooden bedroom furniture covered by the scope includes furniture that is "generally but not exclusively" designed, made, and sold in coordinated groups, commonly called bedroom suites. Moreover, they contend, the scope language indicates that covered items include a wide variety of individual pieces of wooden bedroom furniture, many of which are not typically sold as part of a bedroom suite.

Furthermore, Petitioners disagree with FRA's argument that the Department should include within the scope only those dressers, wardrobe cabinets, and chests that are used to store clothes. Petitioners contend that the Petition intentionally included items such as night stands and night tables which contain drawers that can be used to store items other than clothes.

#### **Department's Position:**

We have determined that the wooden bedroom furniture covered within the scope of the investigation includes items that are not limited to products typically sold as a part of bedroom suites. Analysis of the scope language in the Petition, the Preliminary Determination, and Petitioners' August 6, 2004, rebuttal comments demonstrate that the scope of the investigation includes individual pieces of wooden bedroom furniture that are used to store things other than clothes.

Additionally, an analysis of the scope language in the ITC Report also provides insight with respect to items that make up the wooden bedroom furniture suites:

*"On a broad level, the individual items of furniture that comprise wooden bedroom furniture can be said to share the same general characteristics and end uses.... However, the individual items of furniture making up the wooden bedroom furniture category also differ with respect to certain physical characteristics and end uses. For example, night stands and dressers do not share the same physical structure as beds, nor do they share the same structure and design with each other, because each article is designed specifically for a different end use.... Thus, at a more item-specific level, the individual items of furniture within the bedroom furniture grouping do not share all of the physical characteristics and end uses with the other items of furniture within the grouping. However, the record of this preliminary investigation does generally support petitioners' contention that individual items within the wooden bedroom grouping generally are designed, manufactured and sold to retailers as bedroom "suites"."*<sup>5</sup>

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<sup>5</sup> See Wooden Bedroom Furniture From China, USITC Pub. 3667, Inv. Nos. 731-TA-1058 (Prelim) (Jan. 2004) at 10.

The scope language in the Petition states clearly that wooden bedroom furniture “is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, commonly called bedroom suites...”<sup>6</sup> The Petition specifically identifies a number of pieces of bedroom furniture that are covered (e.g., wooden beds such as loft beds, bunk beds, and other beds, wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds, and night tables, night stands, dressers, vanities, etc.) in the scope of the investigation. Likewise, the Petition also excluded certain products (e.g., seats, chairs, benches, couches, sofas, sofa beds, stools, and seating furniture; mattresses, mattress supports, etc.) from the scope of this investigation.

Accordingly, we determine that there is no basis for the claim that the scope of the investigation covers only “core” bedroom products that are typically sold as part of a bedroom suite because there is no conclusive evidence to support the assertion that “core” bedroom products are the only type of products used in the bedroom.

Therefore, the Department finds that the current scope language provides the appropriate basis for determining whether certain furniture items are, or are not, covered by the scope of the investigation.

#### **Comments 2: Day Beds**

The Importers’ Coalition maintains that the Department should clarify its scope language to exclude day beds explicitly from this investigation on the grounds that day beds are not bedroom furniture but rather used in an office or den and only rarely as a spare for an overnight guest. The Importers’ Coalition proposes specific language to describe the exclusion of day beds from the scope of the investigation.

Shing Mark contends that the Department should exclude day beds from the scope of this investigation. Shing Mark asserts that, since Petitioners provided no guidance and neither agreed nor disagreed that day beds are outside the scope of the investigation, the determination whether a particular daybed model is included in the scope of the investigation can be made from the description of the subject merchandise. Shing Mark contends that in its earlier submission, dated January 13, 2004, it explained its description of its day-bed models and has concluded that none of its day beds should be deemed subject merchandise.

In its January 13, 2004, comments, Shing Mark Group contended that the Department should clarify its scope language to exclude day beds from this investigation on the grounds that day beds are not principally bedroom furniture and that the Department’s existing scope language

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<sup>6</sup> See Petition at 4.



excludes other furniture such as sofa beds and futon frames<sup>7</sup> that have uses and physical attributes either identical to or highly similar to day beds.

The Shing Mark Group argues that the primary function of day beds is for seating, not for sleeping, in rooms other than a bedroom. The Shing Mark Group contends that day beds are essentially couches, sofas, or long chairs.

Petitioners contend that it is not clear that all day beds would fall outside the scope of the investigation. Petitioners argue that, without knowing product-specific details, it would not be appropriate for the Department to create a blanket exclusion for such products. Petitioners maintain that the scope language as currently framed provides the appropriate basis for determining whether particular day beds are, or are not, covered by the scope of the investigation.

#### **Department's Position:**

We have not excluded day beds from the scope of this investigation. We find that there is insufficient information available on the record at this point in the investigation to make an across-the board determination whether to exclude all day beds from the scope of the investigation.

If the ITC makes an affirmative injury determination we will publish an antidumping duty order. Unless other exclusionary language addresses the question of whether specific day beds are within the scope (*e.g.*, they are not made substantially of wood or wood products), we can conduct scope-clarification proceedings to determine whether specific day beds are within the scope of the order.

#### **Comments 3: Inclusion of Parts**

Tumac contends that it may be inappropriate to treat all items covered by the scope language as one like product because they have different physical characteristics and end uses. Tumac recommends that the Department exclude furniture parts not included in the scope of the investigation, except for headboards, footboards, side rails and canopies for beds which are identified specifically in the scope.<sup>8</sup> For example, Tumac imports furniture parts such as drawer sides, drawer fronts, drawer backs, aprons, moldings, tops, shelves, face frame styles, face frame rails, top cleats, and shims. Tumac asserts that most of these imported parts are in an unfinished

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<sup>7</sup> See Notice of Initiation at 70299.

<sup>8</sup> It refers to the language in Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of the Final Determination: Wooden Bedroom Furniture from the People's Republic of China, 69 FR 35312, 35318 (June 24, 2004).

state and must undergo significant further manufacturing in the United States in order to become a piece of wooden bedroom furniture. Therefore, it contends, the uses of these imported parts are not specifically dedicated to bedroom furniture at the time of entry.

Accordingly, Tumac states that the Department should state explicitly that imported parts that are not specifically named and that do not rise to the level of unassembled, uncompleted or unfinished piece of bedroom furniture are excluded from the scope.

Tumac requests that the Department include in the list of exclusions in the scope language (immediately after "(8) bedroom furniture in which bentwood parts predominate") "(9) furniture parts." In the alternative, Tumac suggests the following language:

"(9) furniture parts that are not otherwise specifically named in this scope, including, for example, parts that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete or unfinished form. Such parts are usually classified in subheading 9403.90.7000, HTSUS."

The Importers' Coalition asserts that the existing scope language with respect to certain furniture parts is ambiguous. The Importers' Coalition argues that the Department should clarify the scope to identify which parts are included within the scope of the investigation and provide guidance for distinguishing between in-scope and out-of-scope parts.

The Importers' Coalition contends that Petitioners never intended for furniture parts (other than those specifically mentioned) to be included in the scope of the investigation. Accordingly, based on the description of the scope, the Importers' Coalition asserts that Petitioners specifically mentioned only headboards, footboards, side rails, and canopies for beds as the parts that were subject merchandise. Therefore, the Importers' Coalition argues that the Department should clarify the scope accordingly and specifically exclude non-scope merchandise from the scope of the investigation.

Petitioners concur that the scope language with respect to furniture parts needs to be modified. Petitioners also believe that the language proposed by Tumac to accomplish this can serve as a constructive starting point. Accordingly, Petitioners expressed a willingness to accept a slightly modified version of the language proposed by Tumac. Thus, they propose the following modification to the list of exclusions from the scope:

Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (i.e., wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified in subheading 9403.90.7000, HTSUS.

**Department's Position:**

Because Petitioners have provided exclusionary language which we find to be administrable, we agree to modify the scope language to exclude certain furniture parts.

Therefore, for the final determination, the Department has amended the scope language with respect to furniture parts and included items that possess the essential character of wooden bedroom furniture in the scope of this investigation. The Department includes the following language as exclusion number (9):

Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified in subheading 9403.90.7000, HTSUS.

**Comment 4: "Made Substantially of Wood"**

Birchfield argues that the scope language is ambiguous in that no standard has been provided for "substantially made of wood" because "substantially" is not defined. Consequently, it contends that this vagueness invites confusion as to whether certain products fall within the scope.

Thus for clarity Birchfield proposes to modify the scope language to address the standard as "made almost entirely of wood." Birchfield believes that this clarification would help define the term "substantially" made of wood as products that are made almost entirely of wood.

Shing Mark contends that the Department should reinterpret a clear and reasonable definition of "made substantially of wood." Shing Mark asserts that the existing scope language will create an administrative burden for the Department in having to make *ad hoc* decisions interpreting whether merchandise meets the "made substantially of wood" standard. Accordingly, Shing Mark requests that the Department implement a clear, practical, and reasonable standard to define "made of substantially of wood." Shing Mark suggests the following standard to measure products that are "made of substantially of wood":

1. The weight of wood in a given piece of imported merchandise.
2. On the basis of the specific merchandise as entered (*e.g.*, evaluate the bed rail independently of the bed with which it will be assembled).
3. Give meaning and effect to the term "substantially" such that subject merchandise must contain 75 percent wood products by weight.

Petitioners contends that the new definition Birchfield proposes is significantly more narrow than their intended scope language. Moreover, Petitioners argue that the term “almost entirely” is not merely an interpretation of the scope language but rather an entirely new and far more narrow definition of the products that are covered in the investigation. Consequently, Petitioners recommend that the Department should not place a quantitative value on the term “made substantially of wood.”

**Department’s Position:**

We agree with Petitioners that the term “made substantially of wood” in the existing scope language of the Petition, the Initiation Notice, and the preliminary determination sufficiently defines the products that are covered in the scope of this investigation.

*The subject merchandise are made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, oriented strand board, particle board, and fiberboard; with or without wood veneers, wood overlays, or laminates; with or without non-wood components of trim such as metal, marble, leather, glass, plastic, or other resins; and whether or not assembled, completed of finished.*

See Initiation Notice, 68 FR at 70228.

Additionally, the language that respondents proposed (i.e., “made almost entirely of wood”) does not provide further clarification for the term “made substantially of wood.” Instead it defines the term with different meaning than what Petitioners intended in the scope language and carries a different and more narrow meaning than the word “substantially”. Accordingly, the Department has not reinterpreted the term “made substantially of wood” in the existing scope.

**Comment 5: Long-Term Care Market**

Sunrise Medical contends that patient-room furniture made with wood or wood products, such as that used in the long-term care industry, nursing home, and/or similar markets (collectively known as “the LTC market”), should not be covered by the current antidumping investigation.

Sunrise Medical asserts that a review of the criteria from the Diversified Products case demonstrates that the physical characteristics of Sunrise Medical’s LTC patient-room furniture, the expectations of purchasers, the ultimate use of the products, the channels of trade through which the products reach the ultimate customer, and the manner in which the products are advertised and displayed are different and distinct from wooden bedroom furniture for the retail, residential, hospitality, dormitory, and similar markets.

Moreover, citing pictures and specifications attached to its submissions, Sunrise Medical indicated that the assisted-living market and the LTC patient-care market are regulated at the

state and Federal levels. Sunrise Medical explains that, because of these differences, Sunrise Medical's LTC patient-room furniture is classifiable under HTSUS 9402 as "Medical, surgical, dental, or veterinary furniture" rather than HTSUS 9403, the designated HTSUS classification set forth in the Petition. Therefore, for this reason, Sunrise Medical believes that Petitioners did not include LTC products in their identification of "all" U.S. producers of bedroom furniture covered by the scope of the investigation.

Petitioners contend that Sunrise Medical has not provided any basis for excluding patient-room furniture from the scope of the investigation. Further, Petitioners argue that Sunrise Medical's LTC patient-room furniture made of wood or wood products is clearly covered by the scope of the investigation. In fact, Petitioners comment that, in its initial submission, Sunrise Medical conceded that its imported products fall within the scope of the investigation.

Sunrise Medical's rebuttal comments reiterate previously submitted evidence to argue that its LTC patient-room furniture is designed for patient-care applications in patient-care facilities and not for general bedroom uses. Therefore, it is the company's position that furniture designed for non-bedroom uses, including Sunrise Medical's LTC patient-room furniture, should be excluded expressly from the scope of the investigation.

**Department's Position:**

Sunrise Medical has not presented conclusive evidence to support its assertion that there are meaningful and administrable distinctions between LTC patient-room furniture and other types of wooden bedroom furniture. Therefore, we cannot conclude that, as a category of furniture, products which Sunrise Medical associates with the LTC market are outside the scope of the investigation.

The petition is clear that furniture destined for the assisted-living market is within the scope of the investigation. The Petitioners stated in the petition that hospital beds are outside the scope of the investigation. The LTC category of merchandise which Sunrise Medical asserts the Department should exclude from the scope of the investigation is broad and, within that category, some items may be similar to subject merchandise under the Diversified Products criteria while other products in the LTC category may share characteristics of hospital beds and other products clearly outside the scope. Therefore, making a determination that all LTC-designated products are outside the scope without considering the specific products would not be appropriate at this stage of the investigation.

In its request and comments, Sunrise Medical presents information on different types of products it considers to be part of the LTC market. While it is possible that some of the items it discusses may be outside the scope of the investigation, the Department cannot make a general determination about an entire category of merchandise absent a detailed, evidence-based presentation of argument.

For these reasons, we have not completed the analysis of the category of LTC products under the Diversified Products criteria for purposes of this scope memorandum. Upon the issuance of any antidumping duty order which may result from an affirmative determination by the ITC, parties may request that the Department conduct scope-clarification proceedings to address specific products.

#### **Comment 6: Ready-to-Assemble Bedroom Furniture**

HDC asserts the Department should apply the five-part diversified products test for determining whether RTA belongs in the same class or kind of merchandise as wooden bedroom furniture covered in the scope of the investigation. HDC believes that RTA furniture should be excluded from the scope of the investigation.

HDC argues that an analysis of the Diversified Products criteria illustrates the differences that exist between RTA furniture and traditional assembled wooden bedroom furniture in the following five factors: (1) the physical characteristics of the product; (2) the expectations of the ultimate purchasers; (3) the ultimate use of the product; (4) the channels of the trade in which the product is sold; and (5) the manner in which the product is advertised and displayed.

HDC asserts that the physical characteristics of RTA bedroom furniture at the point of purchase would not enable most consumers to determine whether those unassembled physical components were ultimately intended for use in a bedroom, living room, or office.<sup>9</sup> Alternatively, HDC contends that the physical characteristics of finished bedroom furniture readily identify the merchandise's intended use. Furthermore, HDC argues that RTA furniture generally involves a design without ornate features that can be assembled by the household consumer with basic household tools whereas traditional finished bedroom furniture with intricate features that require specialized tools to assemble would not be suitable for the average household consumer.

HDC contends that ultimate purchasers of finished wooden bedroom furniture expect to receive a single piece of furniture ready to place in a bedroom and capable of use for its intended purpose. Also, it asserts, purchasers of finished goods understand that the product may have to be produced individually and shipped in its finished form, a process that can take several months to complete. Ultimate purchasers of RTA furniture expect to receive a box filled with any number of components, instructions, and tools that can be used to produce a finished product. Likewise, RTA products are sold in a pre-packaged kit and provided to consumers at the point of purchase or within days of transmitting an order at a distribution center. In this regard, HDC asserts that, not only are the expectations of RTA purchasers versus finished goods purchasers different as to what they are receiving, the expectations are different as to when they will receive the product as well.

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<sup>9</sup> Id. at 5.

When examining the ultimate use of the product, HDC argues that RTA furniture does not have use as bedroom furniture. It contends that RTA furniture only has use as individual components to be joined, assembled, and transformed into a finished product that may be used as bedroom furniture.

When considering the channels of trade in which the product is sold, HDC asserts that RTA furniture is provided to consumers through different supply chains, logistics, and distribution channels than those for finished furniture. It explains that RTA furniture is shipped to an intermediate distribution center in re-packaged kit boxes and provided to consumers immediately at the point of sale or within days of transmitting an order to a distribution center. Whereas, HDC asserts, bedroom furniture is produced against a single order and shipped in its finished form directly to the consumer, a process that can take weeks for delivery directly to the ultimate consumer's home in a ready-to-use condition.

Finally, HDC contends that RTA furniture is advertised and displayed in its finished stage in a showroom or catalog. Accordingly, it states, the similarities between the advertisement of display of RTA furniture and finished furniture stop at that point. HDC asserts that RTA furniture must be advertised affirmatively as unassembled goods requiring assembly before use as furniture. In addition, HDC argues that RTA furniture can be advertised as ready for immediate or short-term delivery which may not be the case for finished bedroom furniture.

Dorel contends that RTA bedroom furniture should be excluded from the scope of this investigation. Dorel claims that an analysis of the Diversified Product criteria would clarify that the RTA bedroom furniture is a distinct product from bedroom furniture.

Dorel asserts that the physical characteristics and uses of RTA furniture differ from wooden bedroom furniture. Unlike the mainstream bedroom furniture which is sold and displayed in an assembled form before being sold to an end-user, Dorel argues, RTA goods are not intended to be assembled by the retailers but are intended to be maintained in their imported form and sold as unassembled to an end-user.

Dorel argues that purchasers do not consider RTA furniture to be wooden bedroom furniture. It asserts that consumers buying RTA furniture are not in the market for large, heirloom pieces but are generally looking for more flexibility in furnishing their homes and are not adverse to spending the time and effort to assemble the furniture themselves. Thus, Dorel argues, the consumer's expectations are very different for products that require further assembly rather than for products that are already fully assembled.

In addition, Dorel claims the channels of trade through which RTA products reach the ultimate customer and the manner in which RTA products are advertised and displayed are different and distinct from wooden bedroom furniture. For example, it contends, the primary distribution channels for RTA products are mass merchandisers, discounts stores, and specialty stores. In contrast, Dorel presents, factory-assembled furniture is distributed through independent dealers

and other furniture retail stores. Likewise, Dorel asserts that the advertising and display of RTA products reflect a type of advertising undertaken by mass merchandisers and, accordingly, such advertising cannot devote substantial floor room and displays to the sale of these furniture products. It contrasts such advertising with that of retailers which sell factory-assembled products and have full display areas available.

In their scope comments, LTD and ABC maintain that wooden RTA bedroom furniture is a separate and distinct product group from traditionally assembled or factory-assembled bedroom furniture (collectively, "factory-assembled bedroom furniture"). Accordingly, LTD and ABC propose to modify the existing scope language to define RTA bedroom furniture and exclude it from the scope of the investigation as follows:

"The scope of the petition excludes...(9) RTA bedroom furniture. RTA for purposes of this exclusion means the product is imported complete, but with its major component parts unassembled, in packaging of such sizes and labeling as to be readily identifiable as being intended for retail sale to the ultimate consumer without any alteration in the form of the product or its packaging. Each package will be labeled "RTA-Ready to assembled by ultimate purchaser only" or words to that effect."

In addition, LTD and ABC assert that the above proposed exclusionary language contains safeguards and addresses Petitioners' concerns regarding circumvention due to the following elements:

- The packaging would have to identify the RTA bedroom furniture clearly as such.
- The packaging would be of a size and shape as to be readily identifiable for sale to the ultimate purchaser, such that a party other than the ultimate purchaser (e.g., an intermediate party such as the importer, distributor, or retailer) could not alter the contents nor alter its packaging. The RTA product would be packed for import in its retail packaging, together with the necessary diagrams, instructions and hardware required for assembly, in a "point-of-purchase" display box.
- Major components of the article would be imported unassembled, thereby preventing circumvention of the order by importing substantially completed furniture in need of only minor assembly.

LTD and ABC also illustrate differences in the consumer's expectation and the primary distribution channels between RTA bedroom furniture and factory-assembled bedroom furniture. For instance, LTD and ABC argue that, with RTA furniture, the consumer has more options because the choice (assemble-it-yourself or pay for the assembly) rests with the consumer, not the manufacturer. Thus, they contend, consumers are offered the choice on RTA products, a "take-with" price and an "assembled-item price." LTD and ABC conclude that such a distinction is a factor in the consumer's expectations relative to the purchase of RTA versus traditionally assembled furniture.



Likewise, LTD and ABC argue that the primary distribution channels for RTA bedroom furniture are mass merchandisers and discount stores rather than carefully selected independent dealers or manufacturers' blended retail chains. In such settings, according to LTD and ABC, customers can purchase RTA furniture and load them onto the cart themselves without the need of a sales person to assist them with the purchase of the furniture. Consequently, LTD and ABC state that quicker furniture delivery affects consumers' expectations in furniture purchases.

LTD and ABC claim that Petitioners have not submitted any comments in opposition to the exclusion of wooden RTA furniture from the scope of the investigation nor chosen to challenge LTD and ABC's specific proposed scope language excluding wooden RTA furniture. Therefore, LTD and ABC conclude that, given Petitioners' silence on the scope language, the Department should proceed with excluding wooden RTA furniture from the scope of the investigation.

Petitioners contend that the requests made by LTD/ABC and HDC to exclude RTA furniture from the scope of the investigation have no merit. Petitioners argue that the scope language states clearly that the investigation covers wooden bedroom furniture "whether or not assembled, completed or finished." Therefore, Petitioners assert that the scope language is not ambiguous in defining RTA furniture as bedroom furniture, since the definition of the term "RTA furniture" makes clear that it is furniture that is "not assembled."

Petitioners contend that LTD and ABC's assertion that RTA furniture is distinguishable from traditionally assembled furniture in term of physical characteristics is unsupported. Petitioners argue that the distinction LTD and ABC make regarding RTA furniture as "generally built to provide flexibility in home furnishing" is vague and difficult to comprehend. Moreover, Petitioners question whether such physical distinctions actually exist. Likewise, Petitioners contend that the distinction they made on traditionally assembled furniture as being generally built to last for generations relied upon the fact that a single domestic producer on its website has expressed pride about the fact that its products are durable. Petitioners contend that such a single statement about the characteristics of the furniture of one domestic producer does not convey anything meaningful about the physical characteristics of traditionally assembled furniture.

Petitioners also assert that the argument made by LTD and ABC that there is a clear dividing line between RTA furniture and traditionally assembled furniture with respect to consumer expectations lacks a factual basis on which to determine whether the distinction in fact exists. Petitioners contend that LTD and ABC assert that consumers have different expectations of RTA furniture because it is less stylish than traditionally assembled furniture such that consumers of RTA furniture do not expect it to stay relevant even as their taste and lifestyles change. Petitioners argue that this distinction, to the extent that it once existed, has diminished greatly.

Petitioners contend that LTD and ABC submitted nothing about the ultimate uses of RTA and traditionally assembled furniture because no differences exists in the ultimate uses of the products.

Petitioners contend that the primary distribution channels for RTA furniture are the same as traditionally assembled furniture, asserting that these common channels include retailers such as Wal-Mart, Kmart, JC Penney, and conventional furniture stores. Petitioners also claim that LTD and ABC acknowledge that "the line of demarcation is blurred in the channels of trade for RTA and traditionally assembled furniture..."

Additionally, Petitioners argue there is nothing different or special about the manner in which RTA furniture is advertised. Moreover, Petitioners assert that LTD and ABC acknowledge that RTA furniture and traditionally assembled furniture are both sold by similar retailers, especially mass-market retailers.

Finally, for all of the above-mentioned reasons, Petitioners argue that the Department should not exclude RTA wooden bedroom furniture from the scope of the investigation. Petitioners contend that there is no conceivable legal or factual basis for an exclusion of RTA furniture and the scope language proposed by LTD and ABC would afford no meaningful protection against circumvention.

#### **Department's Position:**

The Department finds the scope language of the Petition, the Initiation Notice, and the preliminary determination states clearly that wooden bedroom furniture "whether or not assembled, completed, or finished" is within the scope of this investigation. Further, given the clear language of the petition, there is no support for the arguments that it covers only "traditional" bedroom furniture and not also furniture imported in component or unassembled form.

Where there is no ambiguity in the scope language of the petition, it is not necessary to examine the Diversified Products criteria further. Furthermore, the suggested exclusionary language by some requestors regarding specific types of packaging criteria under which RTA furniture may be found outside the scope is vulnerable to circumvention. Therefore, because the Petitioners were clear in the petition that they meant to include unassembled wooden bedroom furniture in the investigation, the Department has determined that RTA wooden bedroom furniture is within the scope of this investigation.

#### **Comments 7: Home Office Pieces**

Markor, Lacquer Craft, and the CFTF request that the Department confirm their interpretation of the scope of the investigation with regard to home office furniture items. Markor, Lacquer Craft, and the CFTF argue that the existing scope language clearly includes "(6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise" (emphasis added), yet excludes from the subject merchandise "(3) office furniture, such as desks, stand-up desks, computer cabinets, credenzas, and bookcases."

Thus, Markor, Lacquer Craft, and the CFTF assert that the above-referenced exclusions cover their home office pieces. Given the clear exclusion of desks, computer stands, filing cabinets, book cases, or writing tables from description of the subject merchandise, Markor, Lacquer Craft and the CFTF argue that they do not intend to include such products in their sales listing, regardless of style or whether such pieces share the same "collection" name as a bedroom collection.

Petitioners did not make an affirmative statement regarding home office pieces as discussed by Markor, Lacquer Craft, and the CFTF.

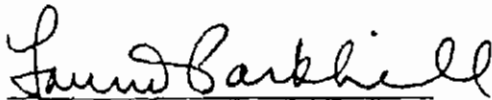
**Department's Position:**

The Department finds the scope language of the Petition, the Initiation Notice, and the preliminary determination states clearly that wooden bedroom furniture includes "(6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise." See Petition at 7. Therefore, we find the scope language as currently written provides the appropriate basis for determining whether certain home office pieces are within the scope of the investigation. In other words, the scope of the investigation covers such products which are attached to or incorporated into the subject merchandise.

**Recommendation**

We recommend that the Department adopt the positions as outlined above concerning the scope of the antidumping investigation on wooden bedroom furniture from the People's Republic of China.

Agree  Disagree



Laurie Parkhill  
Office Director  
AD/CVD Enforcement

11/8/04  
Date

## Attachment 3



UNITED STATES DEPARTMENT OF COMMERCE  
International Trade Administration  
Washington, D.C. 20230

**Public File**

A-570-890  
Scope Ruling  
Public Document  
IA/08: SB

March 18, 2009

To All Interested Parties:

On February 26, 2008, Acme Furniture Industry, Inc. ("Acme") filed a scope ruling request concerning whether certain mattress supports it imports are within the scope of the antidumping duty order on wooden bedroom furniture from the People's Republic of China. See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture From the People's Republic of China, 70 FR 329 (January 4, 2005) ("Order").

In accordance with 19 CFR 351.225(k)(1), and with the antidumping duty Order in effect for this merchandise, the Department of Commerce ("Department") has determined that Acme's mattress supports are not within the scope of the Order.

Enclosed is a memorandum containing the Department's analysis. We will notify U.S. Customs and Border Protection of this decision. If you have any questions, please contact Sergio Balbontin at (202) 482-6478 or Robert Bolling at (202) 482-3434.

Sincerely,

Wendy J. Frankel  
Director, Office 8  
Antidumping and Countervailing Duty Operations

Enclosure





**UNITED STATES DEPARTMENT OF COMMERCE**  
**International Trade Administration**  
Washington, D.C. 20230

A-570-890  
Scope Ruling  
**Public Document**  
IA/08: SB

March 17, 2009

MEMORANDUM TO: John M. Andersen  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

THROUGH: Wendy J. Frankel  
Director, Office 8  
Antidumping and Countervailing Duty Operations

FROM: Sergio Balbontín  
Case Analyst  
AD/CVD Enforcement, Office 8

RE: Wooden Bedroom Furniture from the People's Republic of China:  
Acme Furniture Industry, Inc. Final Scope Ruling

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### Summary

On February 26, 2008, the Department of Commerce ("Department") received a submission from Acme Furniture Industry, Inc. ("Acme") requesting a scope determination<sup>1</sup> on whether certain mattress supports it imports are outside the scope of the antidumping order on wooden bedroom furniture from the People's Republic of China ("PRC"). See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture From the People's Republic of China, 70 FR 329 (January 4, 2005) ("Order").

In accordance with 19 CFR 351.225(k)(1), we recommend the Department determine that the mattress supports Acme imports are not within the scope of the Order.

### Background

On February 26, 2008, Acme submitted a request seeking a determination that the mattress supports it imports are outside the scope of the Order. Pursuant to the requirements of 19 CFR 351.225, Acme provided illustrations and a detailed description of its mattress supports and why it believed they were outside the scope of the Order. No interested party has submitted comments regarding Acme's Scope Request.

Acme states that the mattress supports under consideration (fives styles in total) consist of seven

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<sup>1</sup> See Scope Ruling Request Acme Furniture Industry, Inc., dated February 25, 2008 ("Acme Request").



wooden cross beams, with a perpendicular center wooden support beam, over a four-piece wooden box. See Acme Request at 2. Acme notes that the tops of the mattress supports have a quilted fabric cover while the bottoms a gauze fabric. See Acme Request at 2. Also, Acme states that the mattress supports arrive unassembled, are without pre-drilled holes, constructed without inner springs and/or coils, and marketed as mattress supports or distinct from mattresses and beds. See Acme Request at 2.

### Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, oriented strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chiffrobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,<sup>2</sup> highboys,<sup>3</sup> lowboys,<sup>4</sup> chests of drawers,<sup>5</sup> chests,<sup>6</sup> door chests,<sup>7</sup> chiffoniers,<sup>8</sup> hutches,<sup>9</sup> and armoires;<sup>10</sup> (6) desks, computer stands, filing cabinets,

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<sup>2</sup> A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

<sup>3</sup> A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

<sup>4</sup> A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

<sup>5</sup> A chest of drawers is typically a case containing drawers for storing clothing.

<sup>6</sup> A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

<sup>7</sup> A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

<sup>8</sup> A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

<sup>9</sup> A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

<sup>10</sup> An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;<sup>11</sup> (9) jewelry armoires;<sup>12</sup> (10) cheval mirrors;<sup>13</sup> (11) certain metal parts;<sup>14</sup> (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; and (13) upholstered beds.<sup>15</sup> Imports of subject merchandise are classified under subheading 9403.50.9040 of the HTSUS as “wooden . . . beds” and under subheading

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<sup>11</sup> As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See Customs’ Headquarters’ Ruling Letter 043859, dated May 17, 1976.

<sup>12</sup> Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24” in width, 18” in depth, and 49” in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People’s Republic of China, dated August 31, 2004. See also Wooden Bedroom Furniture from the People’s Republic of China: Notice of Final Results of Changed Circumstances Review and Revocation in Part, 71 FR 38621 (July 7, 2006).

<sup>13</sup> Cheval mirrors are any framed, tiltable mirror with a height in excess of 50” that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, i.e., a framed tiltable mirror with a height in excess of 50”, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet lined with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50” in height, 14.5” in width, and 3” in depth. See Wooden Bedroom Furniture From the People’s Republic of China: Final Results of Changed Circumstances Review and Determination To Revoke Order in Part, 72 FR 948 (January 9, 2007).

<sup>14</sup> Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (i.e., wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheading 9403.90.7000.

<sup>15</sup> Upholstered beds that are completely upholstered, i.e., containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part, 72 FR 7013 (February 14, 2007).



9403.50.9080 of the HTSUS as “other . . . wooden furniture of a kind used in the bedroom.” In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9040 of the HTSUS as “parts of wood” and framed glass mirrors may also be entered under subheading 7009.92.5000 of the HTSUS as “glass mirrors . . . framed.” This order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

### **Summary of the Scope Request**

Acme argues that the mattress supports it imports are explicitly excluded from the Order by the scope language, i.e., “. . . mattress supports (including box springs). . .” See Acme Request at 3. Acme maintains that it is immaterial that its mattress supports are constructed without springs/coils as the scope Order excludes mattress supports with springs/coils, as is the case with “box springs”, and without springs/coils, as is the case with “mattress supports.” See Acme Request at 3.

Acme also argues that the mattress supports under consideration cannot be considered beds as they do not support either a head or footboard and are not shipped with pre-drilled holes to accommodate a head or footboard. See Acme Request at 2. In addition, the mattress supports are not marketed and/or sold as “beds” as evidenced by domestic sales invoices. See Acme Request at 3. Petitioners, American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, have not submitted comments.

### **Legal Framework**

The Department examines scope requests in accordance with the Department’s scope regulations: See 19 CFR 351.225. On matters concerning the scope of an antidumping duty order, the Department first examines the descriptions of the merchandise contained in the petition, the initial investigation, the determinations of the Secretary (including prior scope determinations) and the International Trade Commission (“ITC”). See 19 CFR 351.225(k)(1). This determination may take place with or without a formal inquiry. If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether or not the subject merchandise is covered by the order. See 19 CFR 351.225(d).

Where the descriptions of the merchandise are not dispositive, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These criteria are: i) the physical characteristics of the merchandise; ii) the expectations of the ultimate purchasers; iii) the ultimate use of the product; iv) the channels of trade in which the product is sold; and v) the manner in which the product is advertised and displayed. See 19 CFR 351.225(k)(2). The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

For this inquiry, the Department evaluated Acme’s Request in accordance with

19 CFR 351.225(k)(1) and finds that the description of the product contained in the petition, the initial investigation, the determinations by the Secretary (including prior scope determinations) and the ITC are, in fact, dispositive with respect to Acme's mattress supports. Therefore, the Department finds it unnecessary to consider the additional factors in 19 CFR 351.225(k)(2).

### Analysis

The Department agrees with Acme that the scope language of the Order is clear in its exclusion of mattress supports regardless of whether they are constructed with springs/coils. The scope of the Order excludes, *inter alia* "... (2) mattresses, mattress supports (including box springs)..." We have determined that the Acme mattress supports qualify as mattress supports specifically excluded from the scope of the Order based upon Acme's description as such, and based upon the fact that the mattress supports lay over bare beds (*i.e.*, the complete assembly of a headboard, footboard, and rails) and sit under mattresses.

Additionally, we determine that, despite their wood construction, the mattress supports under consideration are not intended to be used as beds as they lack the proper support such as a top surface that would otherwise accompany an all-in-one "box-set bed". Further, the scope of the Order includes, headboards, footboards, and side rails. Acme's mattress supports which lay over bare beds are not headboards, footboards, or side rails.

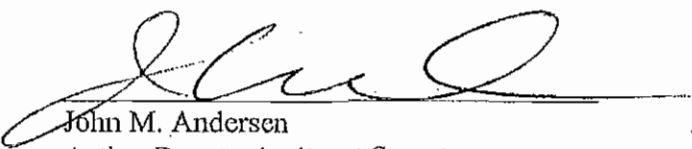
Accordingly, as the scope language of the Order is clear in its exclusion of mattress supports and Acme's mattress supports meet the specific exclusionary language of the Order, we find pursuant to 351.225(k)(1) of the Department's regulations that Acme's mattress supports are not within the scope of the wooden bedroom furniture Order.

### Recommendation

Based upon the foregoing analysis, we recommend finding that Acme's imported mattress supports are outside the scope of the Order covering wooden bedroom furniture from the PRC.

Agree

Disagree

  
John M. Andersen

Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

3/17/09  
Date